IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No. 1818 of 2007

DATE OF DECISION:03.04.2007

Amar Nath @ Amara .....Petitioner

Versus

M/s Maili Ram Ramesh Kumar .....Respondent

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri R.K. Hooda, Advocate
for Shri Ramesh Chahal, Advocate
for the petitioner.

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The petitioner, who is the defendant, in the main suit has filed this revision under Article 227 of Constitution of India for setting aside the order dated 22.2.2007 passed by the trial Court, whereby, the application filed by the petitioner for issuing directions to the plaintiff to produce the documents Ex.D-1 to D-5 in the Court for the purpose of comparison of the signatures of the defendant on those documents was dismissed. The said application was dismissed by the trial Court while observing as under:-

> "After hearing the rival contentions raised by the learned counsel for the parties, this Court finds force in the contentions raised by learned counsel for the respondent-plaintiff. Rather there is no force in the contentions raised by learned counsel for applicant-defendant. In the present case, the case of the plaintiff is that the plaintiff is entitled to recover the principal amount of Rs,3,00,000/- from the defendant alongwith interest as the defendant has also executed the pronote and receipt in favour of the plaintiff on 18.4.2003 and the entries were incorporated in this regard in the bahies. The plaintiff

appeared in the witness box as PW1. Ved Parkash appeared as PW2, Pawan appeared as PW3 and Dr. Inderjit Singh, Handwriting & Finger Print Expert appeared as PW4. When the plaintiff appeared in the witness box, then he was cross-examined by the learned counsel for the defendant at length. In his cross-examination, the learned counsel for the defendant has requested that further cross-examination be deferred as he wants to confront the witness with the original J Forms issued to the defendant on behalf of the plaintiff firm. He has further requested that the witness be directed to produce the pass-book of his account and the original J-Form book which are in his possession. The request of the learned counsel for the defendant was allowed and J Form receipts in original were ordered to be produced by the defendant at his own responsibility. The witness was also directed to produce the pass-book of his account and J Form book, if available. Then on 27.7.2006, the witness was recalled for further cross-examination and in his cross-examination, he has admitted the Forms Ex. D1 to Ex. D5, which belong to his firm and same were issued by his Munim. Meaning thereby the plaintiff has admitted the issuance of the Forms Ex.D1 to Ex.D5.

It is worthwhile to mention here that when the plaintiff has admitted in his cross-examination J Forms as mentioned in the application as Ex.D1 to Ex.D5 that these forms have been issued by his firm, then there is no need to summon the original Forms. Moreover the case of the plaintiff is resting on the pronote and receipt and this court has to see whether the pronote and receipt were executed by the defendant in favour

of the plaintiff firm or not. Moreover, the onus to prove issues No.1 and 2 is on the plaintiff and onus to prove issues no.3 to 5 is on the defendant. The plaintiff has examined four witness in his case. So, this Court is of the view that there is no necessity to summon the Forms which are mentioned in this application as these forms are not necessary for just and proper adjudication of this case as the original Forms Ex.D1 to Ex.D5 are also on the file and on these Forms, the defendant has already cross-examined the plaintiff at length. As such, in view of my above said recorded discussion, this court is of the opinion that the present application is uncalled for, unsustainable and is not maintainable. Accordingly, the present application merits dismissal and same is hereby dismissed."

After hearing the counsel for the petitioner, I do not find any illegality and infirmity in the impugned order.

Dismissed.

April 03, 2007 **(SATISH KUMAR MITTAL)**
pooja **JUDGE**